

*City of Alexandria, Virginia*  
*Department of Planning & Zoning*

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**SPECIAL USE PERMIT CERTIFICATE**

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this special use permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the special use permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit #2012-0052

Approved by Planning and Zoning: September 11, 2012

Permission is hereby granted to: Eric Nelson

to use the premises located at: 506 John Carlyle Street (Parcel Address: 520 John Carlyle Street)

for the following purpose: see attached report

It is the responsibility of the special use permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

9-11-12

Date

Faroll Hamer / BR

Faroll Hamer, Director

Department of Planning and Zoning

DATE: September 4, 2012

TO: Barbara Ross, Deputy Director  
Department of Planning and Zoning

FROM: Nathan Randall, Planner  
Department of Planning and Zoning

SUBJECT: Special Use Permit #2012-0052  
Administrative Review for New Use  
Site Use: Restaurant with Outdoor Seating  
Applicant: Eric Nelson  
Location: 506 John Carlyle Street (Parcel Address: 520 John Carlyle Street)  
Zone: CDD #1 / Coordinated Development District #1

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### **Request**

Special Use Permit #2012-0052 is a request to operate an ice cream shop/ restaurant with outdoor dining at 506 John Carlyle Street in the Carlyle Square Condominium building. The applicant seeks approval to expand his existing gift shop with accessory ice cream sales into an ice cream shop/restaurant with 25 indoor seats and 20 outdoor seats. The proposed hours of operation are 11 a.m. to 7 p.m. Sunday and Monday and 11 a.m. to 8 p.m. Tuesday - Saturday. The applicant, who also operates an ice cream shop/ restaurant on Mount Vernon Avenue in Del Ray, plans to continue to operate as a combination gift/ice cream shop under the name Artfully Chocolate.

### **Background**

The applicant has operated a gift shop with accessory ice cream sales as a permitted use for approximately the last two years, during which time the applicant added outdoor seating. However, outdoor seating is only allowed with Special Use Permit approval and only in connection with an approved restaurant. Staff informed the applicant of the need for Special Use Permit approval for both the restaurant and outdoor dining uses. The applicant subsequently filed this Special Use Permit request.

### **Parking**

The parking requirements for the subject building were specified in the Transportation Management Plan (Special Use Permit #2254) for the Carlyle development. Public parking is available in the Patent & Trademark Office parking garage across John Carlyle Street during limited hours.

### **Community Outreach**

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Carlyle-Eisenhower Civic Association and the Carlyle Square Condominium Unit Owners Association were sent an e-mail with information about the current

application. Staff has not received any comments from residents or adjacent businesses that would require staff to docket the Special Use Permit for public hearing.

**Staff Action**

Staff supports the applicant's request to operate an ice cream shop/restaurant with outdoor dining in this location. As a practical matter the use will continue to operate as a small combination gift and ice cream shop, much the same as it has over the past couple of years. This application merely formalizes, as a technical zoning matter, the use of the space as a restaurant with outdoor dining consistent with Sections 11-511(L) and (M) of the Zoning Ordinance. Restaurants meeting the definition of an "ice cream shop", such as this business, are eligible for Administrative SUPs because they are exempt, pursuant to Section 11-511(L)(2) of the Zoning Ordinance, from the typical Administrative SUP eligibility requirement that the restaurant must provide full service. The application represents the first case in which a restaurant has applied under the "ice cream/coffee shop" exception established as part of small business zoning changes in 2010.

Generally speaking, the presence of a restaurant in this location promotes the mixed-use planning goals envisioned in the original Carlyle neighborhood plan. Outdoor dining in this location in particular will help to increase visibility of the restaurant and other retail uses along the ground level of this building. Outdoor dining will also help to enliven the pedestrian experience along this block of John Carlyle Street.

Staff has included several standard conditions of approval in this report regarding matters such as odors, trash, and litter. It has included condition language allowing additional hours of operation in the morning and the evening compared to requested hours, to provide the applicant additional flexibility. Staff believes that live entertainment is not appropriate in this mixed-use building and, although the applicant has not requested it, has prohibited it in Condition #6. To help prevent loitering in the outdoor dining area after the restaurant is closed, staff has included Condition #8 to require the applicant to either bring chairs inside the building or to stack and lock them each night. Similar condition language was included in the SUP for the nearby Italian Gourmet Deli at 500 John Carlyle Street approved approximately two years ago.

Staff hereby approves the Special Use Permit request.

**ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:**

Date: September 11, 2012

Action: Approved

  
Barbara Ross, Deputy Director

- Attachments: 1) Special Use Permit Conditions  
2) City Department Comments  
3) Statement of Consent

**CONDITIONS OF SPECIAL USE PERMIT #2012-0052**

The applicant is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

1. The Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)
2. The hours of operation of the restaurant shall be limited to between 10 a.m. and 9 p.m. daily. (P&Z)
3. The maximum number of indoor seats at the restaurant shall be 25 and the maximum number of outdoor seats at the restaurant shall be 20. (P&Z)
4. Outdoor dining at the restaurant shall be substantially consistent with the plan submitted. A minimum of 8 feet clear sidewalk must be maintained at all times. Any subsequent changes to the outdoor dining plan shall require the review and approval of the Directors of Planning & Zoning and Transportation & Environmental Services. The outdoor seating area shall not include advertising signage, including on umbrellas. (P&Z)
5. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
6. No live entertainment shall be permitted either inside the restaurant or in the outdoor dining area. (P&Z)
7. No delivery service shall be available from the restaurant. (P&Z)
8. The applicant shall either: 1) remove all tables and chairs from the outdoor dining area at the close of business each night and store them inside the building while the restaurant is closed or 2) stack and lock all outdoor dining chairs and tables so as to preclude their after-hours use. (P&Z)
9. Meals ordered before the closing hour may be sold, but no new patrons may be admitted and all patrons must leave by one hour after the closing hour. (P&Z)
10. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)
11. No food, beverages, or other material shall be stored outside. (P&Z)
12. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z)

13. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation. (T&ES)
14. The use must comply with the city's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line. (T&ES)
15. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
16. The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services. (T&ES)
17. Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m. (T&ES)
18. The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (T&ES)
19. The applicant shall require its employees who drive to work to use off-street parking. (T&ES)
20. The applicant shall contact the Community Relations / Crime Prevention Unit of the Alexandria Police Department at 703-746-1920 regarding a security survey for the business and robbery readiness training for all employees. (Police)
21. The Director of Planning and Zoning shall review the Special Use Permit one year from this approval and shall docket the matter for consideration by the Planning Commission and City Council if: (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

R-1 A minimum of 8 feet clear sidewalk must be maintained at all times. Any subsequent changes to the outdoor dining plan shall require the review and approval of the Directors of Planning & Zoning and Transportation & Environmental Services.

**R-2 From Zoning Ordinance Sections 11-513 (C), (L), (M)**

**(C)** *General standards for all administrative uses:*

- (3) The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.
- (5) The applicant shall require its employees who drive to work to use off-street parking.
- (9) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.
- (10) The use must comply with the city's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line.

**(L)** *Specific standards for restaurants.*

- (10) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (11) The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services.

(12) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.

**(M)** *Specific standards for outdoor dining.*

- (5) No live entertainment shall be permitted in the outdoor seating area.

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (TES)

In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at [commercialrecycling@alexandriava.gov](mailto:commercialrecycling@alexandriava.gov), for information about completing this form.

Code Enforcement:

- F-1 The review by Code Administration is a preliminary review only. Once the applicant has filed for a building permit, code requirements will be based upon the building permit plans. If there are any questions, the applicant may contact Ken Granata, Plan Review Services Division Chief at [ken.granata@alexandriava.gov](mailto:ken.granata@alexandriava.gov) or 703.746.4193.
- C-1 A building permit is required for this project. Five sets of *construction documents* that fully detail the layout shall be submitted. Detailed dimensional drawings including means of egress shall accompany the construction (building) permit application. If a Virginia licensed design professional prepares drawings for the project, the plans shall bear the seal of the design professional in accordance with the Code of Virginia Section 54.1-410B.
- C-2 A Certificate of occupancy shall be obtained prior to any occupancy of the building or portion thereof for a child daycare, in accordance with 2009 VCC §116.1.

Health Department:

- F-1 An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual or location to another.
- F-2 Plans shall be submitted to the Health Department through the Multi-Agency Permit Center. Plans shall be submitted and approved by the Health Department prior to construction. There is a \$200.00 plan review fee payable to the City of Alexandria.
- F-3 Plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food and Food Handling Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.

- F-4 Facilities engaging in the following processes may be required to submit a HACCP plan: Smoking as a form of food preservation; curing food; using food additives to render food not potentially-hazardous; vacuum packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; and sprouting seeds or beans.
- F-5 A Certified Food Manager shall be on-duty during all operating hours.
- F-6 The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
- F-7 Wood flooring in eating areas shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent. In many cases, original wooden flooring in historical structures may not be suitable for food service facilities.

Parks and Recreation:

- F-1 No comments received

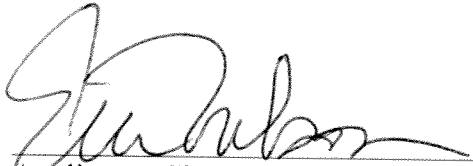
Police Department:

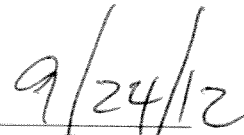
- R1 The applicant is to contact the Community Relations / Crime Prevention Unit of the Alexandria Police Department at 703-746-1920 regarding a security survey for the business.
- R2 The applicant is to contact the Community Relations / Crime Prevention Unit of the Alexandria Police Department at 703-746-1920 regarding a robbery readiness program for all employees.



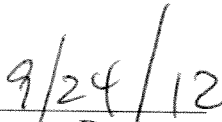
STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2012-0052. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 506 John Carlyle Street.

  
Applicant - Signature

  
Date

Eric Nelson  
Applicant - Printed

  
Date